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January 21, 2009

PUBLIC HEARING ON PROPOSED NEW OR AMENDED ILLINOIS SUPREME COURT RULES

The Rules Committee of the Illinois Supreme Court will hear comments at a public hearing on Monday January 26 on proposals to require consular notification for foreign nationals in criminal proceedings, and to clarify current rules dealing with expedited appeals in child custody cases.

The hearing will begin at 10 a.m. at 160 N. LaSalle Street, Room C-500.

One of the proposals would create a new Supreme Court Rule 404 that would require a judge to advise in open court that any foreign national who is arrested has the right that his consular representatives be given notice of the arrest and that the defendant has the right to communicate with consular representatives. The rule is intended as a backup to Article 36 of the Vienna Convention on Consular Relations which requires the arresting authority to inform a foreign national of these rights “without delay,” usually before the national’s initial court appearance. This proposed rule requires a judge to so advise the defendant as a backstop in case the arresting or detaining authority failed to give the information or kept no record of giving it.

Honoring Article 36 helps U.S. consular representatives to similarly assist United States citizens in foreign countries, notes a committee comment to the proposed rule.

Other proposed rules for comment at the hearing include Rules 306, 306A, 307, 308, 311, 901 and 922. They comprise primarily organizational changes in the rules and attempt to clarify them, simplifying language to provide that all appeals are expedited from final orders and interlocutory appeals involving child custody cases.

Also on the agenda is a proposal to amend Supreme Court Rule 11 which deals with serving court papers on parties in a case. The proposed amendment would require that any materials submitted to the court by an attorney or party less than seven days in advance of a hearing or trial must provide those same materials on all opposing attorneys or parties on the same day they are filed with the court.

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The full text of the proposed rules and amendments are posted on the Supreme Court website at: www.state.il.us/court. To view the proposals, scroll down on the Home page to “Legal Community” and click on “Supreme Court Rules Committee Public Hearings.”

Justice Thomas L. Kilbride is the Supreme Court liaison to the Rules Committee.
Attorney John Nicoara of Peoria is chair of the Rules Committee.

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(FOR MORE INFORMATION, CONTACT: Joseph Tybor, press secretary to the Illinois Supreme Court, at 312.793.2323)